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9 ROSA MORENO

10 **UNITED STATE DISTRICT COURT**
11 **CENTRAL DISTRICT OF CALIFORNIA**

12 ESTATE OF CESAR RODRIGUEZ,) CASE NO.

13 by and through successor in interest,)

14 Rosa Moreno, and ROSA MORENO,) **COMPLAINT FOR DAMAGES**

15 individually,)

16 Plaintiffs,)

17 vs.)

18 CITY OF LONG BEACH, LONG)

19 BEACH POLICE DEPARTMENT,)

20 MARTIN RON, DOES 1 through 10,) **DEMAND FOR JURY TRIAL**

21 inclusive,)

22 Defendants.)

23 **COMPLAINT FOR DAMAGES**

24 COME NOW Plaintiffs ESTATE OF CESAR RODRIGUEZ, by and through
25 successors in interest; ROSA MORENO, individually and as successor in interest
26 (hereinafter collectively "Plaintiffs"), and allege as follows:
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INTRODUCTION

1. This civil rights action seeks to establish the violations of fundamental civil rights under the United States Constitution in connection with the death of Cesar Rodriguez on August 29, 2017.

2. Cesar Rodriguez was a 23-year-old loving son to his mother Rosa Moreno.

3. Long Beach Police officer Martin Ron wrongfully and illegally took Cesar Rodriguez into custody and then undertook a deliberate and intentional course of conduct which led to the death of Cesar Rodriguez.

4. The present lawsuit seeks to bring to public light, through trial, the misconduct of officer Martin Ron, the lack of training in place at the Long Beach Police Department regarding in-custody handling of suspects as well as the handling and management of suspects detained on the Blue-line route of the MTA.

PARTIES

5. At all relevant times, Cesar Rodriguez was an individual residing in Los Angeles County, California. The claims made by the ESTATE OF CESAR RODRIGUEZ, are brought by his mother, Rosa Moreno the successor in interest to the ESTATE OF CESAR RODRIGUEZ pursuant to California Code of Civil Procedure § 377.32.

6. Plaintiff Rosa Moreno is and was, at all times relevant hereto, a resident of the Los Angeles County, and is the natural mother of decedent Cesar Rodriguez.

7. Defendant CITY OF LONG BEACH (hereafter "CITY"), is and was, at all times mentioned herein, a public entity, duly organized and existing under and by virtue of the laws of the state of California, with the capacity to sue and be sued. Defendant CITY is responsible for the actions, omissions, policies, procedures, practices and customs of its various agents and agencies. At all times relevant to the facts alleged herein, Defendant CITY was responsible for assuring that the actions,

1 omissions, policies, procedures, practices and customs of its employees complied
2 with the laws and the Constitutions of the United States and of the State of
3 California.

4 8. The Long Beach Police Department (hereinafter "LBPD") is a
5 subdivision of Defendant CITY OF LONG BEACH.

6 9. Defendant Martin Ron (hereinafter "RON") is a police officer working
7 for the Long Beach Police Department. Defendant RON is sued in his official and
8 individual capacity. At all times relevant to the present action, Defendant RON was
9 acting under the color of law, to wit, under the color of the statutes, ordinances,
10 regulations, policies, customs, and usages of Defendant CITY OF LONG BEACH, as
11 well as under the color of the statutes and regulations of the State of California.

12 10. At all relevant times, each of the Defendants DOES 1 through 10 were
13 acting within his or her capacity as an employee, agent, representative and/or servant
14 of Defendant CITY, and is sued in their individual capacity.

15 11. On information and belief, at all relevant times, the individually named
16 defendant officers and DOES 1 through 10, inclusive, were residents of Los Angeles
17 County, California.

18 12. The true names of Defendants DOES 1 through 10, inclusive, are
19 unknown to Plaintiffs, who therefore sue these Defendants by such fictitious names.
20 Plaintiffs will seek leave to amend this Complaint to show the true names and
21 capacities of these Defendants when they have been ascertained. Each of the
22 fictitious named Defendants is responsible in some manner for the conduct and
23 liabilities alleged herein.

24 13. Defendant DOES 1 through 3 were also duly appointed officers,
25 sergeants, lieutenants, detectives, or other officers, officials, executives and/or
26 policymakers of the LBPD, a department and subdivision of Defendant CITY, and at
27 all times mentioned herein said Defendants were acting in the course and scope of
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1 their employment with Defendant CITY, which is liable under the doctrine of
 2 *respondeat superior* pursuant to California Government Code § 815.2.

3 14. Each of the Defendants caused and is responsible for the unlawful
 4 conduct and resulting by, inter alia, personally participating in the conduct, or acting
 5 jointly and in concert with others who did so; by authorizing, acquiescing or failing
 6 to take action to prevent the unlawful conduct; by promulgating policies and
 7 procedures pursuant to which the unlawful conduct occurred; by failing and refusing,
 8 with deliberate indifference to Plaintiffs' and decedent's rights, to initiate and
 9 maintain adequate supervision and/or training; and, by ratifying the unlawful conduct
 10 that occurred by agents and peace officers under their direction and control.
 11 Whenever and wherever reference is made in this Complaint to any act by a
 12 Defendant, such allegation and reference shall also be deemed to mean the acts and
 13 failures to act of each Defendant individually, jointly and severally. They are sued in
 14 their individual and official capacities and in some manner are responsible for the
 15 acts and omissions alleged herein. Plaintiffs will ask leave of this Court to amend this
 16 Complaint to allege such name and responsibility when that information is
 17 ascertained. Each of the Defendants is the agent of the other.

18 15. The present plaintiffs have complied with the requirements of the
 19 California Tort Claims Act and have presented written claims to defendant CITY.
 20 Said claims were rejected formally or by operation of law, and the state-law claims
 21 presented herein are rightfully and timely brought.

22 JURISDICTION AND VENUE

23 16. This civil action is brought for the redress of alleged deprivations of
 24 constitutional rights as protected by 42 U.S.C. § 1983, the First, Fourth and
 25 Fourteenth Amendments of the United States Constitution. Jurisdiction is founded on
 26 28 U.S.C. §§ 1331, 1343, and 1367.

27 17. Venue is proper in this Court under 28 U.S.C. § 1391(b), because
 28 Defendants reside in, and all incidents, events, and occurrences giving rise to this

1 action occurred in the CITY OF LONG BEACH, California, which is in the
2 geographic and legal jurisdiction of this court.

3 18. With respect to Plaintiffs' supplemental state claims, Plaintiffs request
4 that this court exercise supplemental jurisdiction over such claims as they arise from
5 the same facts and circumstances which underlie the federal claims.

6 **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

7 19. Cesar Rodriguez was a 23-year-old young man of good health. He was
8 loyal and loving son to his mother, Rosa Moreno. On August 29, 2017, Cesar
9 Rodriguez was pronounced dead at the Long Beach Memorial Medical Center from
10 the injuries sustained during an encounter with defendants Martin Ron and DOES 1
11 through 5.

12 20. On August 29, 2017, at approximately 8:45 PM, Cesar Rodriguez was
13 exiting a passenger train at the Blue-Line Wardlow station. While on the train
14 platform, he was confronted by defendants Martin Ron and DOES 1 through 5, and
15 he was taken into custody. While Cesar Rodriguez was in the custody of Martin
16 Ron, Martin Ron pushed or otherwise took Cesar Rodriguez to the ground on the
17 train platform. Before doing so, defendant Martin Ron knew or should have known
18 that a northbound train was approaching the eastern edge of the platform immediately
19 near where he and Cesar Rodriguez stood.

20 21. The train was visible as it approached the platform, and the sound
21 emanating from the train as well as the traffic control devices near the station notified
22 defendant Martin Ron of its impending arrival at the Wardlow Station platform.

23 22. Despite knowing that the train was approaching the location where he
24 stood with Cesar Rodriguez, Martin Ron intentionally threw or otherwise forcefully
25 brought Cesar Rodriguez to the edge of the train platform causing the lower half of
26 Cesar Rodriguez's body to extend into the path of the oncoming train.

27 23. Cesar Rodriguez was helpless to prevent his body from being forcefully
28 thrown in the path of the train and was unable to move from the path of the train or

1 otherwise avoid being struck by the train. Accordingly, as the lower half of his body
2 was hung from the edge of the platform, the front of the oncoming train struck him
3 and came to a stop. The lower half of Cesar Rodriguez's body became lodged in the
4 small gap between the edge of the platform and the train.

5 24. He suffered extensive internal injuries and fractures of various bones
6 from the impact of train striking him as well as from the crush injuries from being
7 pinned between the train and the platform.

8 25. Cesar Rodriguez remained pinned between the train and the platform for
9 approximately 25 minutes. He was conscious during entire time and force to suffer
10 immeasurable pain as well as the psychological trauma of experiencing and
11 contemplating his impending death.

12 26. Paramedics and other fire department personnel arrived and extracted
13 Cesar Rodriguez from between train and the platform.

14 27. Cesar Rodriguez was transported to Long Beach Memorial Medical
15 Center Hospital and was administered various emergency room therapies and
16 treatments. He did not survive his injuries and he died at approximately 10:45 PM.

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FIRST CLAIM FOR RELIEF

Excessive Force Causing Constitutional Violations

42 U.S.C. § 1983

As Against Defendants MARTIN RON and DOE Defendants 1 through 10

28. Plaintiff Estate of Cesar Rodriguez realleges and incorporates the foregoing paragraphs as if set forth herein

29. Defendants' actions described herein violated Cesar Rodriguez's rights under the Fourteenth Amendment to the United States Constitution incorporated and made applicable to states and municipalities by the Due Process Clause of the Fourteenth Amendment. The conduct also violated Cesar Rodriguez's constitutional rights against unreasonable force under the Fourth Amendment of the U.S. Constitution.

30. At the time of Cesar Rodriguez's death, he was not engaging in, nor had he engaged in, any assaultive or threatening conduct. Under the totality of the relevant circumstances that existed, he posed no danger or threat to Defendant Martin Ron or anyone else. Said defendants recklessly created an unconstitutional provocation leading to the death of Cesar Rodriguez. Such conduct was unreasonable under the circumstances in every respect and was undertaken intentionally and recklessly by these Defendants when they forcefully threw Cesar Rodriguez to the floor of the platform in front of an oncoming train.

31. These actions violated Cesar Rodriguez's due process and substantive due process rights as protected by the Fourteenth Amendment to the United States Constitution.

32. During the encounter described above, Cesar Rodriguez endured great physical and emotional pain and suffering.

1 33. Defendants' conduct violated clearly established constitutional or other
2 rights, of which Defendants knew, or of which reasonable public officials should
3 have known, rendering Defendants liable to Plaintiffs under 42 U.S.C. § 1983.

4 34. The unauthorized, unwarranted and reckless use of force while Cesar
5 Rodriguez was in custody was willful and done with a deliberate disregard for the
6 rights and safety of Cesar Rodriguez, and therefore warrants the imposition of
7 punitive damages as to Defendants Martin Ron and DOES 1 through 10.

8 35. Accordingly, Defendants are liable to Plaintiffs for compensatory
9 damages pursuant to 42 U.S.C. § 1983.

10 **SECOND CLAIM FOR RELIEF**

11 **Municipal Liability for Inadequate Training**

12 **42 U.S.C. § 1983**

13 **As Against Defendant CITY OF LONG BEACH and**

14 **DOE Defendants 5 through 10**

15 36. Plaintiff Estate of Cesar Rodriguez realleges and incorporates the
16 foregoing paragraphs as if set forth herein.

17 37. On July 1, 2017, the Long Beach Police Department began patrolling the
18 MTA Blue Line route within the limits of the City of Long Beach, including at all of
19 the train stations within the City of Long Beach. The City of Long Beach and the
20 Long Beach Police Department failed to develop and implement any policies or
21 procedures regarding this new patrolling activity, and said defendants failed to train
22 its officers as to the specific dangers and threats posed to the public related to police
23 contact on trains and train platforms.

24 38. On and before August 29, 2017, defendant CITY OF LONG BEACH
25 and DOES 5 through 10 were aware that Defendant Defendants Ron and DOES 1
26 through 5, the had not received proper and necessary training in the management of
27 suspects on Blue-Line trains and on the Blue Line train platforms.

39. Defendant CITY OF LONG BEACH and DOES 1 through 10, acting with deliberate indifference to the rights and liberties of the public in general, and of the present Plaintiffs and decedent, and of persons in their class, situation and comparable position, knowingly allowed the defendants Martin Ron and DOES 1 through 10 to serve as patrol officers on the Blue Line routes within the City of Long Beach without proper training as to the dangers related to arresting suspects on trains and train platforms; including the dangers posed by incoming trains to suspects being arrested on train platforms. Defendants City of Long Beach, Long Beach Police Department and DOES 1 through 5 knew that such untrained officers would have confrontations with suspects on the train platform which would result in injury to the suspects because of the lack of training.

40. By reason of the aforementioned acts and omissions, CESAR RODRIGUEZ suffered serious injuries from which he eventually lost his life.

41. Accordingly, Defendants CITY OF LONG BEACH and DOES 5 through 10 are liable to Plaintiff Estate of Cesar Rodriguez for compensatory damages pursuant to 42 U.S.C. § 1983 for his special and general damages.

THIRD CLAIM FOR RELIEF

Assault and Battery

As Against Defendants CITY OF LONG BEACH, MARTIN RON, and DOE Defendants 5 through 10

42. Plaintiff Estate of Cesar Rodriguez realleges and incorporates the foregoing paragraphs as if set forth herein.

43. This cause of action arises under the general laws and Constitution of the State of California. Plaintiffs have complied with the California Tort Claims Act requirements.

1 44. By virtue of the foregoing, Defendants Martin Ron and DOES 5 through
2 10, assaulted and battered Cesar Rodriguez and caused him to be struck by a train, as
3 pleaded herein above, by and through their actions described above.

4 45. These Defendants, and each of them, assaulted and battered Cesar
5 Rodriguez, as pleaded herein above, when said Defendants acted intentionally to
6 cause, and did cause, said non-consensual, unprivileged, unjustified, excessive,
7 harmful or offensive contact to the person of Cesar Rodriguez.

8 46. These acts were undertaken by Defendants Martin Ron and DOES 5
9 through 10, intentionally and without justification.

10 47. As a result of these deliberate and unjustified acts undertaken by these
11 Defendants, and each of them, Cesar Rodriguez endured great physical and emotional
12 pain and suffering.

13 48. These deliberate and unjustified acts undertaken by these Defendants,
14 and each of them, were willful and done with a deliberate disregard for the rights and
15 safety of Plaintiffs and, therefore, warrant the imposition of punitive damages as to
16 these Defendants.

17 49. Defendants CITY OF LONG BEACH is liable to Plaintiffs for the acts
18 of their public employees, the individual Defendants herein, for conduct and/or
19 omissions herein alleged, pursuant to the doctrine of *respondeat superior*, codified at
20 California Government Code § 815.2.

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FOURTH CLAIM FOR RELIEF

Wrongful Death

**As Against Defendants MARTIN RON, THE CITY OF LONG BEACH and
DOE Defendants 1 through 10**

50. Plaintiff Rosa Moreno realleges and incorporate the foregoing paragraphs as if set forth herein.

51. This cause of action arises under the general laws and Constitution of the State of California, including California Government Code §§ 815.2 and 820.

52. Defendant Martin Ron and DOES 1 through 10, while working as police officers, supervisors and personnel of the Long Beach Police Department, and acting within the course and scope of their duties, took Cesar Rodriguez into custody and employed negligent tactics and intentionally and/or without due care recklessly caused the death of Cesar Rodriguez. The Defendants, and each of them, had no legal or reasonable justification for their actions or subjective belief that such actions were lawful.

53. As a direct and proximate result of the conduct of Defendants, as alleged above, Cesar Rodriguez suffered serious injuries and lost his life. Plaintiff Rosa Moreno, has been deprived of the life-long comfort, society, support and care of Cesar Rodriguez, and will continue to be so deprived for the remainder of her natural life. Ms. Moreno was further forced to pay funeral and burial expenses as a result of the conduct of Defendants.

54. Defendant CITY OF LONG BEACH is vicariously liable for the wrongful acts of Defendants Martin Ron and DOES 1 through 10, pursuant to California Government Code § 815.2, which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him to liability.

1 55. Martin Ron and DOES 5 through 10, and each of them, received
2 inadequate training from the Long Beach Police Department in the proper
3 management of suspects on trains and on train platforms, as well as regarding
4 dangers posed to suspects during arrests on train platforms. As a direct and
5 proximate result of this failure to provide such training, the death of Rosa Moreno
6 resulted, causing Plaintiff Rosa Moreno the losses and injuries herein complained of.

7 56. At no time, either prior to the employment of Defendants Ron and
8 DOES 1 through 10 or to the assignment of these Defendants to duties whereby it
9 was foreseeable that said Defendants would be required to engage in patrol or
10 security duties on trains and train platforms, did Defendants City of Long Beach and
11 DOES 6 through 10 take reasonable steps to ascertain whether these defendants Ron
12 and DOES 1 through 5 were psychologically capable of performing such duties and
13 whether they had a propensity towards violence or toward over-reaction in typical
14 encounters with the public. To the contrary, Defendants DOES 6 through 10 were
15 aware of various instances where defendant Ron and DOES 1 through 5
16 unnecessarily and recklessly engaged in excessive force and mistreated suspects in
17 custody, as pleaded herein. Despite knowledge of such propensity, Defendants City
18 of Long Beach and DOES 6 through 10 failed to take action to discipline or train
19 these Defendants to correct this propensity. Instead, Defendants DOES 6 through 10
20 carelessly allowed these Defendants to continue to encounter members of the public
21 in the course of their duties on trains and train platforms. As a direct and proximate
22 result of this failure to use due caution and care in the selection, training, and
23 retention of these Defendants Rosa Moreno lost his life, causing Plaintiff Rosa
24 Moreno the losses and injuries complained of herein.

25 57. As a result of the aforementioned negligent and intentional acts, Plaintiff
26 Rosa Moreno, has lost the love, affection, society, support and moral support of
27 Cesar Rodriguez.
28

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs requests entry of judgment in their favor and against Defendants as follows:

- A. For compensatory damages, including pre-death pain and suffering damages, general damages and special damages, and statutory damages for violation of the laws and Constitution of the United States and California in an amount to be determined at trial;
- B. For punitive damages against Defendants Martin Ron, and DOES 1 through 10 pursuant to 42 U.S.C. § 1983 and any other applicable laws or status, in an amount sufficient to deter and make an example of each non-government entity Defendant;
- C. For prejudgment interest to be determined at trial;
- D. For reasonable costs of this suit and attorneys' fees, including attorneys' fees pursuant to 42 U.S.C. § 1988, and any other appropriate statute; and
- E. For such further other relief as the Court may deem just, proper, and appropriate.

Respectfully Submitted,

Dated: August 27, 2018

CASILLAS & ASSOCIATES

By /s/ Arnoldo Casillas
ARNOLDO CASILLAS
Attorneys for Plaintiffs,
ESTATE OF CESAR RODRIGUEZ, and
ROSA MORENO

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DEMAND FOR JURY TRIAL

COME NOW Plaintiffs ESTATE OF CESAR RODRIGUEZ, by and through
successors in interest; ROSA MORENO, individually and as successor in interest;
and hereby demand for a trial by jury.

Dated: August 27, 2018

CASILLAS & ASSOCIATES

By /s/ Arnoldo Casillas
ARNOLDO CASILLAS
Attorneys for Plaintiffs,
ESTATE OF CESAR RODRIGUEZ, and
ROSA MORENO